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Redevelopment Board Minutes 09/15/2008 Corrected

Arlington Redevelopment Board
Minutes of September 15, 2008

CORRECTED, 10/16/08

Members Present: Chris Loret
Andrew West
Roly Chaput
Bruce Fitzsimmons

Also Present: Kevin J O'Brien
Joey Glushko
Dave Berry

Andy West called the meeting to order at 7:05 and asked Doug Manz from Symmes Redevelopment Associates to give a report on the project status. Doug Manz explained that they are in the process of getting construction loans but it is taking much longer than he ever expected. He said that they have not obtained building permits as their agreement requires and he would like to ask the Board for an extension of that date. He pointed out that his company has already spent \$24.9 million on the project and are committed to continuing it. He indicated that most of the paper work is done, the appraisal of the property supported the projected cost. He offered that SRA had inquired of the lenders if the recently reported bankruptcy of Lehman Bros. affected the lenders' ability to loan to SRA and the replies were that it did not, but that such events make the lenders even more careful and more slow to close.

Bruce Fitzsimmons asked if Doug Manz could predict a closing date. Doug Manz said the date is set by the lender, but he thought it would be 30 to 45 days from now. He offered that the oil stained rock that was discovered at the site did not concern the lenders. Chris Loret asked if the Board had requested a surety bond of the developer. Kevin O'Brien replied that it had not. He then asked Doug Manz what would be the consequences if the Board noticed SRA that they were in default of the LDA. Doug Manz replied that it would be a problem for the lenders. One might be able to word the notice carefully but it would still complicate the process. Chris Loret observed that the LDA gives the developer 60 days to remedy such a default and requested that legal counsel advise the Board about what would happen if a remedy were not accomplished. He asked that counsel explain the Board's options. Doug Manz asked that the Board not issue a notice because it would send a wrong message to lenders. He requested that the Board extend the building permit deadline to October 30. Kevin O'Brien indicated that he would ask counsel to attend the next meeting, or if that were not possible, to send a memo explaining the options.

Chris Loret then asked Doug Manz if the oil stained rock were still on the site. Doug Manz replied that it was and that it covered a small corner of the Building 3 foundation area. The process was underway to remedy it and most likely SRA will do the work when the time comes. Chris Loret asked if JPI (partner in SRA) had backed out of projects nationwide. Doug Manz replied that it had not. In many cases, similar to Arlington, the company is too close to construction and has too much money invested in the projects. Chris concluded by saying that he proposed that the Board not take any action tonight but wait until it hears from its attorney next week.

Bruce Fitzsimmons suggested that the Board consider sending a letter of forbearance to indicate that if the Board does not notice the developer now, that is not an indication that it cannot or won't in the future. After some discussion Bruce Fitzsimmons moved that the Board authorize the secretary ex officio to consult with counsel and send a letter to the developer that says essentially, "As of this date, notwithstanding the fact that SRA is outside the time period for the issuance of building permits,~the ARB has not noticed Symmes Redevelopment Associates that it is in default of the terms of the Land Disposition Agreement, but a forbearance of this do not waive any rights to do so....". Roland Chaput seconded the motion and the Board voted 4 to 0 to approve.

Beth Ann Friedman asked how these events will push out the timeline for completion of the project. Doug Manz responded that he wouldn't know the impact until they get through the winter, it depends on weather and how much work can get done in the winter.

The Board then signed decisions for
7 Central Street, special permit amendment
47 Mystic Street, wireless communication facility
929 Concord Turnpike, wireless communication facility
4 Winslow Street, wireless communication facility

The Board discussed the revised Sign Sense text and asked for a further mock-up showing where illustrations might appear.

The Board discussed the draft RFP for the Economic Development Plan consultant and made some changes. Chris Loret questioned the inclusion of a Chamber of Commerce representative on the committee that will vet the results of the study, stating that he believed that it would be inappropriate for any single non-governmental organization to have this role. Kevin O'Brien pointed out that it was felt that the Chamber added legitimacy to the study and should help to make it relevant to the business community. Dave Berry said the RFP will be issued within a week or two. The Board then discussed the Board's representative on the Economic Development study committee. Roland Chaput nominated Chris Loret to serve on the Economic Development Plan Review Committee. Bruce Fitzsimmons seconded the motion and the Board voted 4 to 0 to approve.

Andy West then took up old and new business and asked the Board to discuss the situation at 197 Broadway. Kevin O'Brien explained that a building permit had been issued to add two housing units as a second and third floor on the existing one story retail building at 197 Broadway. He said that the Building Inspector had described that the second and third floors were set back from the Broadway face of the building. The land to the rear of the building was used for four parking spaces and for open space. Chris Loret explained to the Board that he thought that the addition of the two floors was a significant change to the facade of the building and that the proposed alteration should therefore have come before the ARB for Environmental Design Review. He also mentioned that the area used to provide parking for the new housing units was previously used for parking for the businesses and should continue to serve the retail use on the first floor of the building, noting that removal of this parking increased the nonconformity with the off-street parking requirements. Kevin O'Brien explained that the Building Inspector had decided that because the second and third floor addition was set back from the building face, it was not a change to the facade. He also mentioned that the parking that occurred behind the building in the past did not meet bylaw requirements and the Building Inspector explained that there were many such situations in Arlington's business zones and it does not make sense to prevent such parking, and also it cannot be said that the parking meets a parking requirement. After some discussion Chris Loret moved that the secretary ex officio be directed to appeal the decision of the Building Inspector to issue a building permit for 197 Broadway. Bruce Fitzsimmons seconded the motion and the Board voted 4 to 0 to approve.

In other old and new business, the Andy West asked for a more exact address for the location of examples of street light fixtures and encouraged the Board members to look at them before next meeting. Bruce Fitzsimmons agreed to participate in the celebration of the Minute Man bikeway's induction to the Bikeway Hall of fame on October 5th.

The Board then looked at the sign proposal for the Arlington Children's Theater at the Gibbs School building. The Board agreed that the sign was consistent with the existing sign permit and could be installed. The Board then considered the request of the Arlington Center for the Arts to hold an open studio program on Sunday October 19, 2008 from 12PM-5PM. Kevin O'Brien explained that the Center's other requests regarding parking and temporary signs was under the jurisdiction of the Selectmen and would be considered by that board. Chris Loret moved to approve the Sunday use of the space, Roland Chaput seconded the

motion and the Board voted 4 to 0 to approve.

The Board adjourned at 10:00 PM.

Respectfully submitted,
Kevin J O'Brien